

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2002-386-C - ORDER NO. 2003-138  
MARCH 12, 2003

IN RE: Application of SimpleDSL, LLC for a ) ORDER  
Certificate of Public Convenience and ) GRANTING  
Necessity to Provide Local Exchange and ) CERTIFICATE  
Exchange Access Telecommunications )  
Services within the State of South Carolina. )

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of SimpleDSL, LLC (“SimpleDSL” or the “Company”) requesting a Certificate of Public Convenience and Necessity to provide resold local exchange telecommunications services throughout the State of South Carolina. In addition, the Company requests that the Commission regulate its local service in accordance with the principles and procedures established for flexible regulation by Order No. 98-165 in Docket No. 97-467-C. The Company’s Application was filed pursuant to Chapter 9 of Title 58 of the South Carolina Code Annotated and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission’s Executive Director instructed SimpleDSL to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. SimpleDSL complied with this instruction and provided the

Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”).

Thereafter, counsel for SCTC filed with the Commission a Stipulation in which SimpleDSL stipulated that it would seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until SimpleDSL provided written notice of its intent prior to the date of the intended service. SimpleDSL also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. SimpleDSL agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to SimpleDSL to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on March 5, 2003, at 10:30 a.m. in the Commission’s Hearing Room. The Honorable Mignon Clyburn, Chairman, presided. SimpleDSL was represented by John J. Pringle, Esquire. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Charles M. Watson, sole Member of Simple Internet, LLC, a member of SimpleDSL, appeared and testified on behalf of the Company.

Mr. Watson is an attorney in Greenwood and has been practicing since 1987. He opened his law office in Greenwood at the age of 25. Mr. Watson's practice is primarily limited to real estate transactions with some civil litigation; he is also the County Attorney for Greenwood County. Mr. Watson has also chaired the County Planning and Development Committee which worked to attract industry and jobs to Greenwood.

SimpleDSL is a South Carolina limited liability company. There are two members of SimpleDSL. One is Simple Internet, LLC, which is owned by Mr. Watson, and the other is SimplePC, LLC, which is owned by James Kennemore. SimpleDSL is requesting authority to provide services in the service areas of the non-rural local exchange carriers in the State of South Carolina. Specifically, SimpleDSL intends to provide service in the area served by Sprint United Telephone Company. However, SimpleDSL will provide DSL to areas where Sprint is not providing DSL service.

In 1997, Mr. Kennemore opened Simplified Computer Solutions as an information technology company to provide homes and small businesses with sales, service, support, and training for computers, printers, networks, and the Internet. Mr. Kennemore also opened SimplePC.net to offer dial-up Internet access to users connecting in the Greenwood area. According to the record, since its inception, SimplePC.net has offered the lowest cost dial-up access (\$13.99 currently) in the Greenwood area. Mr. Kennemore combined his companies into a new company in 2002 named SimplePC, LLC. After he began providing services to Mr. Watson's law office, Mr. Kennemore and Mr. Watson developed the concept of providing DSL service to the rural areas of Greenwood County through the Company that is seeking certification in this docket.

According to the testimony, Simple Internet, LLC provides the financial support, while SimplePC, LLC provides the expertise.

SimpleDSL will operate as a competitive local exchange carrier (CLEC) in South Carolina and proposes to offer high-speed data services between points within the State of South Carolina. SimpleDSL intends to purchase unbundled network elements (UNEs) from the incumbent local exchange carriers to use in conjunction with its own facilities. The Company proposed to provide service on a facilities-based basis.

Regarding the Company's technical expertise to provide the proposed local services within the State of South Carolina, the testimony reveals that James Kennemore has a diverse background in various internet working technologies including manufacturer specific technologies such as Cisco, Nortel, and Lucent. Mr. Watson also testified that Mr. Kennemore has a proven record of being able to provide internet service at a lower price than most of his competitors through efficient use of network infrastructure. SimpleDSL has put together a management team with substantial telecommunications and business experience. The Company will seek to recruit additional technical, operational, and sales personnel with experience in the local exchange business.

Mr. Watson also provided testimony on the Company's financial ability to provide telecommunications services. A copy of Mr. Watson's financial statements were included in the Company's Application because SimpleDSL is a start-up company with no financial history. However, Simple Internet, LLC has committed to provide the capital necessary to fund SimpleDSL's proposed operation in South Carolina.

The testimony reveals that SimpleDSL is requesting waivers of some Commission regulations. To the extent that Commission Regulation 103-611 requires the Company to keep its books and records in accordance with the Uniform System of Accounts (USOA), the Company asks the Commission to allow it to keep those records in accordance with Generally Accepted Accounting Principles (GAAP). Further, SimpleDSL asks that the Commission waive application of Commission Regulation 103-612.2.3, which requires each utility to file with the Commission a map or maps showing its certificated area and/or exchange service area(s). SimpleDSL will be offering service within the geographic service areas of the incumbent local exchange carriers (ILECs). Finally, SimpleDSL requests a waiver of Commission Regulation 103-631, which requires each utility to publish telephone directories. The Company will contract with the ILECs and/or their directory publishing affiliates, to provide its customers with directory listings as well as to undertake the distribution of directories.

In addition, SimpleDSL requested that the Commission regulate its local exchange telecommunications services under the flexible regulatory treatment approved by Order No. 98-165 in Docket No. 1997-467-C. Specifically, SimpleDSL requested that the Commission adopt for SimpleDSL a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, SimpleDSL requested that its tariff filings be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filings, in which case such tariff filings would be suspended pending further Order of the Commission, and that

any tariff filing will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

The testimony reveals SimpleDSL's presence in South Carolina as a telecommunications service provider will provide consumers with a choice, but more importantly, SimpleDSL hopes to provide DSL service to areas of the State which the major providers have determined are not economically feasible. According to Mr. Watson, this will allow service to be offered to rural areas who might not otherwise have high speed service available for many years. Mr. Watson pledged to comply with all applicable Commission rules, statutes, and orders, as well as applicable federal law that pertain to the provisioning of telecommunications services in South Carolina.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. SimpleDSL is a South Carolina limited liability company. A copy of SimpleDSL's Articles of Organization and Certificate of Existence were included in the Company's Application.
2. SimpleDSL wishes to provide local exchange services within the State of South Carolina.
3. The Commission finds that SimpleDSL possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2002).

4. The Commission finds that SimpleDSL's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2002).

5. The Commission finds that SimpleDSL will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2002).

6. The Commission finds that SimpleDSL will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2002).

7. The Commission finds that the provision of local exchange service by SimpleDSL "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 2002).

#### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to SimpleDSL to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between SimpleDSL and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, SimpleDSL may not provide any local service to a customer located in a rural incumbent LEC's service area, unless or until SimpleDSL provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice

period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from SimpleDSL that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by SimpleDSL in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. SimpleDSL shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. SimpleDSL's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C.

Specifically, the Commission adopts for SimpleDSL's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility

for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, SimpleDSL's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. SimpleDSL shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. SimpleDSL shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. SimpleDSL shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, SimpleDSL shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, pursuant to the Commission's regulations, the

Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm).

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs SimpleDSL to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, SimpleDSL shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on

a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

SimpleDSL shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. SimpleDSL shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2001).

8. SimpleDSL shall file annually the Intrastate State Universal Service Fund (USF) worksheet due August 15 for calendar and fiscal year ending companies.

9. SimpleDSL requested waivers from certain Commission regulations and requirements. Specifically, SimpleDSL requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories, and (2) the requirement found in Rule 103-612.2.3 that the Company file with the Commission a map or maps showing its certificated area and/or exchange areas. The Company also requested permission to exempt it from any requirement to maintain books and records in compliance with the USOA. The Commission grants the request for waiver from the requirement to publish directories as SimpleDSL has indicated that it will contract with


the incumbent local exchange company to include the customers of SimpleDSL in the directory listing of the ILEC directory. Additionally, we forbear the Company from filing a map or maps showing the Company's certificated area and/or exchange service areas. Initially, in conformance with the Stipulation that has been entered into by SCTC and SimpleDSL, the Company will offer local services in the non-rural areas of the State. Further, the Commission grants SimpleDSL's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA.

10. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms).

11. SimpleDSL is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

12. This Order shall remain in full force and effect until further Order of the Commission.

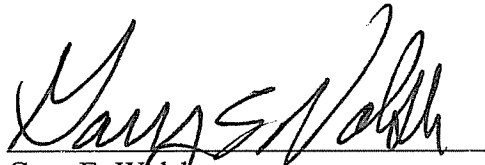
BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn  
Chairman

ATTEST:



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Gary E. Walsh  
Executive Director  
(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2002-386-C

Re: Application of SimpleDSL, LLC for a )  
Certificate of Public Convenience and )  
Necessity to Provide Local Exchange and )  
Exchange Access Telecommunications Services )  
in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and SimpleDSL, LLC ("SimpleDSL") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose SimpleDSL's Application. SCTC and SimpleDSL stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to SimpleDSL, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. SimpleDSL stipulates and agrees that any Certificate which may be granted will authorize SimpleDSL to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. SimpleDSL stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. SimpleDSL stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until SimpleDSL provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, SimpleDSL acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. SimpleDSL stipulates and agrees that, if SimpleDSL gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then SimpleDSL will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. SimpleDSL acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

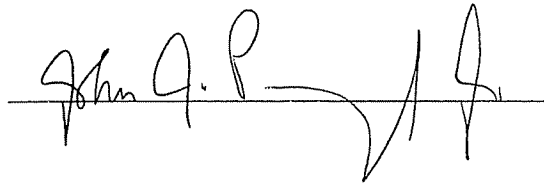
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and SimpleDSL, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. SimpleDSL agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

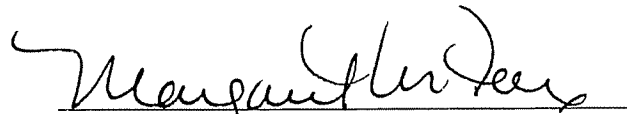
9. SimpleDSL hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this <sup>10th</sup> ~~7th~~ day of February, 2002.

SimpleDSL, LLC:

A handwritten signature in black ink, appearing to read "John G. P.", written over a horizontal line.

South Carolina Telephone Coalition:

A handwritten signature in black ink, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.  
Margaret M. Fox  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
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Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

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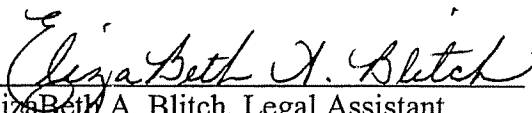
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\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

John J. Pringle, Jr., Esquire  
Ellis, Lawhorne & Sims, P.A.  
Post Office Box 2285  
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ElizaBeth A. Blitch, Legal Assistant  
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February 12, 2003

Columbia, South Carolina